

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL ACTION NO.
	)	2:09cr27-MHT
EUGENE LAMAR PENDLETON	)	

OPINION AND ORDER

During defendant Eugene Lamar Pendleton's sentencing hearing on July 6, 2010, the court stated the following in open court: "[T]he court will sentence Pendleton to a term of 160 months with 100 months on counts two and four and 60 months on count three, to be served consecutively." (Emphasis added.) Later, however, while actually imposing the sentence, the court stated: "[I]t is the order, judgment and decree of the court that the defendant Eugene Lamar Pendleton is committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 160 months. This sentence consists of 100 months on counts two and four,

to be served concurrently, and 60 months on count four, to be served consecutively, for a total term of 160 months." (Emphasis added.)

It is clear from the record that the second statement to the extent the court sentenced Pendleton to a consecutive term of 60 months on count four was clear error, for it is apparent that the court did not mean to give two different sentences for count four but rather meant to say, and should have said, that "This sentence consists of 100 months on counts two and four, to be served concurrently, and 60 months on count three, to be served consecutively, for a total term of 160 months." Pursuant to Fed. R. Crim. P. Rule 35(a) ("Within 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error."), the court will correct this clear error in the record.

Accordingly, it is ORDERED that the record is corrected to reflect that "Defendant Eugene Lamar

Pendleton is sentenced to a term of imprisonment of 160 months, with 100 months on counts two and four, to be served concurrently, and 60 months on count three, to be served consecutively."

DONE, this the 15th day of July, 2010.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE

